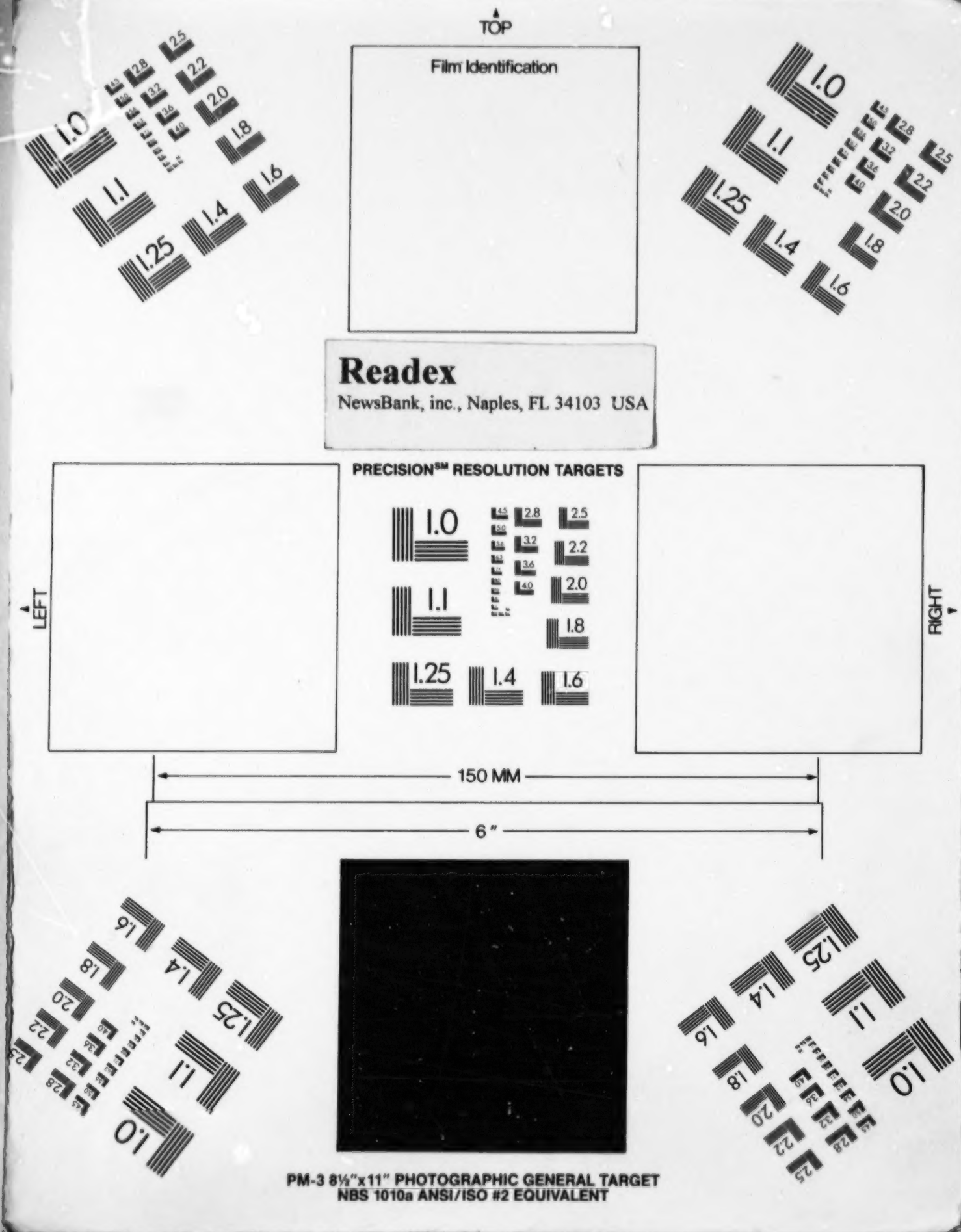


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United Nations CEDAW/C/KAZ/CO/3-4

Convention on the Elimination of All Forms of Discrimination against Women

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**Committee on the Elimination of Discrimination against Women**

# Concluding observations on the combined third and fourth periodic reports of Kazakhstan*

1. The Committee considered the combined third and fourth periodic reports of Kazakhstan (CEDAW/C/KAZ/3-4) at its 1193rd and 1194th meetings, on 14 February 2014 (see CEDAW/C/SR.1193 and 1194). The Committee's list of issues and questions is contained in CEDAW/C/KAZ/Q/3-4 and the responses of the Government of Kazakhstan are contained in CEDAW/C/KAZ/Q/3-4/Add.1.

## A. Introduction

2. The Committee appreciates that the State party submitted its combined third and fourth periodic reports. It also appreciates the State party's written replies to the list of issues and questions raised by its pre-sessional working group. It welcomes the oral presentation of the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party's delegation, which was headed by the Chair of the National Commission on Women's Affairs and Family and Demographic Policy. The delegation also included representatives of the Majilis (lower house of the parliament), the National Commission on Women's Affairs and Family and Demographic Policy, the Ministry of Justice, the Ministry of Education and Science, the Ministry of Economy and Budget Planning, the Ministry of Regional Development, the Ministry of Culture and Information, the Ministry of Internal Affairs, the Ministry of Labour and Social Protection, the Office of the Prosecutor-General, the Ministry of Public Health and the Ministry of Foreign Affairs.

## B. Positive aspects

4. The Committee welcomes the progress achieved since the consideration in 2007 of the State party's second periodic report (CEDAW/C/KAZ/2) by adopting the

* Adopted by the Committee at its fifty-seventh session (10-28 February 2014).

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following legislative measures:

(a) Act on State Guarantees of Equal Rights and Opportunities of Men and Women, in 2009;

(b) Domestic Violence Act, in 2009;

(c) Pensions Act, in 2013, which equalizes the retirement age of men and women.

5. The Committee welcomes the State party's efforts to improve its policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, such as the adoption of the following:

(a) Gender Equality Strategy, 2006-2016;

(b) Salamatty Kazakhstan programme, 2011-2015, which focuses on the provision of women's health care;

(c) Establishment of the "Damu" Entrepreneurship Development Fund, which has projects that seek to encourage female entrepreneurship.

6. The Committee welcomes the State party's accession to the following international instruments:

(a) International Convention for the Protection of All Persons from Enforced Disappearance, in 2009;

(b) First Optional Protocol to the International Covenant on Civil and Political Rights, in 2009;

(c) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2008;

(d) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in 2008;

(e) Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, in 2008.

## C. Principal areas of concern and recommendations

### Parliament

7. The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians, adopted at the forty-fifth session, in 2010). It invites the Parliament, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations between now and the next reporting period under the Convention.

### Visibility of the Convention and the Committee's general recommendations

8. While noting that under article 4 (3) of the Constitution of the State party, the Convention and other international treaties ratified by the State party are directly

applicable and take precedence over national law, the Committee is concerned about the lack of visibility and direct application of the Convention and awareness of its general recommendations, notwithstanding the efforts by the Supreme Court to contribute to a better understanding of the provisions of the Convention. The Committee is particularly concerned that there are no court cases involving sex- and gender-based discrimination, and at reports that the provisions of the Convention have been directly invoked or applied only in a few cases by national courts.

9. **The Committee calls upon the State party:**

(a) **To intensify existing programmes to ensure the adequate dissemination of the Convention and the Committee's general recommendations among relevant stakeholders, including government officials, parliamentarians, the judiciary, lawyers, law enforcement officers and community leaders, in order to create awareness of women's human rights in the State party;**

(b) **To take all appropriate measures to enhance women's awareness of their rights and the means to enforce them, including facilitating access to the compendium on United Nations legal documents on questions of equality of men and women published on the website of the Supreme Court of the State party;**

(c) **To train the judiciary and the legal profession with regard to the Committee's jurisprudence under the Optional Protocol and to apply and invoke the Convention during court proceedings when necessary.**

**Definition of discrimination against women**

10. The Committee notes that the adoption of the Act on State Guarantees of Equal Rights and Opportunities for Men and Women in 2009 includes the prohibition of discrimination against women based on sex and gender. The Committee notes with concern, however, that the definition of gender discrimination in the Act does not encompass elements of both direct and indirect discrimination in line with article 1 of the Convention.

11. **The Committee reiterates its previous concluding observations (CEDAW/C/KAZ/CO/2, para. 12) and calls upon the State party to adopt a comprehensive legal definition of discrimination against women in line with article 1 of the Convention, covering both direct and indirect discrimination in the public and private spheres, in its Constitution or other appropriate national legislation, and to prohibit and sanction such discrimination in line with the Convention.**

**Access to justice**

12. The Committee is concerned that women rarely seek justice and legal accountability when they face sex- and gender-based violence and discrimination, and that, in instances when they begin legal proceedings, they are often hampered by a range of obstacles, such as social stigma and persisting pejorative stereotypes. The Committee is also concerned about the lack of adequate provision of free legal aid in the State party.

13. **The Committee recommends that the State party:**

**(a) Conduct awareness-raising campaigns to eliminate stigmatization and pejorative stereotypes of women who seek justice;**

**(b) Provide systematic training to judges, prosecutors and lawyers on the application of legislation prohibiting discrimination and violence against women;**

**(c) Ensure that women have effective access to justice, including through the provision of legal aid, especially to women belonging to disadvantaged groups, and support non-governmental organizations, where relevant, which facilitate women's access to justice, in all parts of the country.**

**Temporary special measures**

14. The Committee welcomes the fact that the State party has set a goal aimed at attaining 30 per cent representation of women at the decision-making level of elected and appointed bodies and that the State party has made some progress in this regard. The Committee is concerned, however, about the fact that temporary special measures are not being used in other areas covered by the Convention to accelerate the achievement of de facto equality of women and men.

15. **The Committee calls upon the State party to consider using temporary special measures, in accordance with article 4 (1) of the Convention and the Committee's general recommendation No. 25 on temporary special measures, as a necessary strategy to accelerate the achievement of substantive equality of women and men in all areas of the Convention where women are underrepresented.**

**Stereotypes and harmful practices**

16. The Committee recalls its previous concluding observations (CEDAW/C/KAZ/CO/2, para. 13) and remains concerned at the persistence of some forms of harmful practices and traditions and patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society, in particular those portraying women as caregivers. The Committee notes that such stereotypes contribute to the increased harmful practice of child marriage and polygamy among certain ethnic groups, and hence to the disadvantaged and unequal status of women in society.

17. **The Committee reiterates its previous concluding observations (CEDAW/C/KAZ/CO/2, para. 14) and urges the State party:**

**(a) To intensify the efforts of the National Commission on Women's Affairs and Family and Demographic Policy and other stakeholders to educate people and raise their awareness of existing sex-based stereotypes that persist at all levels of society, with a view to eliminating them;**

**(b) To expand public education programmes on the negative impacts of such stereotypes on women's enjoyment of their rights, in particular in rural areas and targeted communities;**

**(c) To take effective legal measures to combat child marriages and polygamy;**

**(d) To regularly monitor and review the measures taken to eliminate gender stereotypes in order to assess their impact.**

**Violence against women**

18. While welcoming the adoption of the Domestic Violence Act in 2009, the Committee is concerned about the lack of legislation criminalizing all forms of violence against women, including stalking. It is also concerned that the definition of the crime of rape under article 120 of the Criminal Code and the Supreme Court Decree is limited to penetrative vaginal intercourse, and that violence or threat of violence is a necessary element of this crime. The Committee is further concerned at the lack of adequate and regular State funding for crisis centres and shelters for women who are victims of violence. The Committee is concerned that the Criminal Code provides for a distinction regarding acts of violence against women that are amenable to settlement when the alleged perpetrator reconciles with the victim and undertakes to "make good for the harm" and other offences that are subject to prosecution. The Committee is also concerned that the prosecution of acts of violence can be undertaken only when a victim lodges a complaint. The Committee is particularly concerned at the underreporting of cases of domestic violence owing to a culture of silence resulting in impunity. The Committee notes that the State party is planning to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

19. **Recalling its general recommendation No. 19 on violence against women, and its previous recommendation (CEDAW/C/KAZ/CO/2, para. 16), the Committee urges the State party:**

**(a) To use the Convention, the Committee's general recommendation No. 19, and its jurisprudence when revising its legislative framework to ensure that the revised Domestic Violence Act of 2009 and the Penal Code comprehensively cover all forms of violence against women, including stalking;**

**(b) To put in place a system of comprehensive data collection on all forms of violence against women, and encourage reporting of all forms of violence against women and girls, including domestic and sexual violence;**

**(c) To ensure effective investigation of all complaints and the ex officio prosecution of acts of violence against women, ensure that perpetrators are punished with appropriate sanctions, and do away with any form of mediation and reconciliation in cases of violence against women;**

**(d) To revise its legislation to ensure that the definition of the crime of rape is in accordance with the Convention and the Committee's jurisprudence under the Optional Protocol;**

**(e) To ensure that the draft law proposing amendments to the financing of crisis centres and shelters provides for adequate and regular funding by the State party of those facilities;**

**(f) To consider ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.**

**Trafficking and exploitation of prostitution**

20. While welcoming the entry into force of the act introducing certain amendments to the law on trafficking in July 2013, and the amendment of the Tourism Act in 2007 to prohibit the use of the tourism industry for purposes of organizing the unlawful departure of Kazakh citizens to foreign countries, the Committee remains concerned that the State party is a country of origin, transit and destination for trafficked women and girls, mainly for sexual exploitation and forced labour. The Committee is also concerned at the low incidence of reporting of trafficking crimes. It is further concerned that, although women engaged in prostitution have access to health-care services, there are no data regarding programmes aimed at addressing prostitution, including exit programmes for women who wish to leave prostitution.

21. **The Committee recommends that the State party:**

(a) **Intensify efforts to address the root causes of trafficking in women and girls and to ensure the rehabilitation and social integration of victims, including by providing them with access to shelters, legal, medical and psychosocial assistance and alternative income-generating opportunities;**

(b) **Intensify awareness-raising activities aimed at promoting reporting of trafficking crimes and early detection of women and girls who are victims of trafficking;**

(c) **Intensify efforts aimed at bilateral, regional and international cooperation to prevent trafficking, including by exchanging information and harmonizing legal procedures to prosecute traffickers, in particular with the Commonwealth of Independent States and other countries in the region;**

(d) **Provide data in its next periodic report on existing programmes aimed at addressing prostitution, including exit programmes for women who wish to leave prostitution.**

**Participation in political and public life**

22. The Committee welcomes the progress made by the State party in promoting the participation of women in political and public life, noting that the State party has established a roster for nominating highly qualified women to leadership positions. It also notes that the Gender Equality Strategy 2006-2016 sets a goal of achieving at least 30 per cent representation of women in both elected and appointed positions. The Committee remains concerned, however, that women continue to be underrepresented in legislative bodies (parliament and local authorities), and in leadership positions in political parties, in the public service and in the diplomatic service, in particular at the decision-making level. The Committee is also concerned that there are no voluntary or obligatory quotas envisaged by electoral legislation.

23. **The Committee reiterates its previous concluding observations (CEDAW/C/KAZ/CO/2, para. 22) and recommends that the State party introduce measures to ensure the effective implementation of the Gender Equality Strategy 2006-2016 at the national and local levels, and to adopt more prescriptive temporary special measures, in accordance with article 4 (1) of the Convention and the Committee's general recommendations No. 25 on temporary special measures and No. 23 on women in public life, in order to**

**accelerate women's full and equal participation in elected and appointed bodies, including in the diplomatic service. The Committee also recommends that the State party consider reviewing the current electoral legislation to ensure that temporary special measures or quotas are reflected in the legislative framework. The Committee further recommends that specific measures be taken with political parties to increase women's leadership in political parties.**

**Nationality**

24. While noting the progress made by the State party in registering persons with underdetermined nationality and ensuring their access to basic services, the Committee is concerned that there still exist stateless persons, including women and girls, who continue to face difficulties in gaining access to education, health care and other services owing to the lack of identification documents and proof of residence in the State party. The Committee is also concerned that a considerable number of childbirths are not registered in the State party.

25. **The Committee recommends that the State party:**

(a) **Undertake programmes aimed at accelerating the regularization of stateless women and girls and ensure that they have adequate access to education, health care and other basic services;**

(b) **Strengthen its public awareness-raising campaigns and take specific measures to ensure that poor and rural women are aware of the requirements relating to State birth registration and are able to easily gain access to birth registration services, including birth certificates, provided by the Government.**

**Education**

26. While noting the high level of education of women and girls in the State party, the Committee is concerned at stereotypical choices of subjects and courses in education, which are reflected in employment, where women are concentrated in traditionally female-dominated areas such as health and the service industry. The Committee is also concerned about the increasing number of girls who drop out of school owing in part to child marriages.

27. **The Committee recommends that the State party:**

(a) **Encourage girls and young women to choose non-traditional fields of study and professions, including through the adoption of temporary special measures, and implement programmes aimed at counselling boys and girls on the full range of educational choices;**

(b) **Reduce school dropouts among girls by combating child marriages through the development of a comprehensive strategy, which should, among other things, focus on raising awareness among parents, community leaders and the general public about the harmful practice of child marriage;**

(c) **Integrate age-appropriate education on sexual and reproductive health and rights into school curricula, including comprehensive sex education for adolescent girls and boys covering responsible sexual behaviour.**

**Employment**

28. The Committee notes the progress that the State party has made in increasing wages in sectors of employment where women are concentrated, and through the adoption of the Pensions Act in June 2013, which equalizes the retirement age of women and men. The Committee remains concerned, however, about the persisting gender pay gap, the high level of unemployment among women and the long list of prohibited occupations for women, totalling 299 professions. The Committee also remains concerned about the continued occupational segregation between women and men in the labour market, and that women are concentrated in low-paid sectors of employment. The Committee is further concerned at the lack of provisions in national law prohibiting sexual harassment in the workplace.

29. **The Committee reiterates its previous concluding observations (CEDAW/C/KAZ/CO/2, para. 24) and calls upon the State party:**

(a) **To intensify efforts under the "Employment road map for 2020" in order to reduce unemployment among women through, among other things, the provision of vocational and technical training;**

(b) **To strengthen efforts aimed at eliminating structural inequalities and occupational segregation, both horizontal and vertical, and to adopt measures to narrow and close the pay gap between women and men by, among other things, consistently reviewing wages in sectors where women are concentrated;**

(c) **To review the list of prohibited areas of work for women and consider improving working conditions for such areas of work which are considered to be hazardous to the health of women, with a view to facilitating women's entry into such occupations;**

(d) **To urgently adopt comprehensive legislation to combat sexual harassment in the workplace in line with the Committee's general recommendation No. 19 on violence against women.**

**Health**

30. The Committee welcomes the progress made by the State party in combating HIV/AIDS transmission through the introduction of prenatal programmes aimed at preventing mother-to-child transmission of HIV/AIDS and the introduction of the Salamatty Kazakhstan programme, 2011-2015, which focuses on the provision of health care to women. The Committee is concerned, however, that, while the population living with HIV/AIDS is low, the growth rate of newly reported HIV cases significantly exceeds the population growth rate, and women remain at high risk of contracting HIV. The Committee is also concerned at the lack of data on women drug users in the society and in prisons who are in need of drug dependency treatment and who are living with HIV/AIDS. The Committee is further concerned that free access to contraceptives is not on the list of State-guaranteed free medical services.

31. **The Committee calls upon the State party:**

(a) **To intensify the implementation of strategies to combat HIV/AIDS, in particular preventive strategies, and to continue the provision of free antiretroviral treatment to all women and men living with HIV/AIDS, including pregnant women so as to prevent mother-to-child transmission;**

**(b) To collect data on women drug users in prisons and in society at large to determine the extent of the problem, with a view to developing appropriate drug dependency interventions and determining the number of those living with HIV/AIDS in need of medical care;**

**(c) To consider adding free access to a comprehensive range of contraceptives to women, including rural women, women with disabilities and adolescents on the list of State-guaranteed free medical services.**

**Disadvantaged groups of women**

32. While noting the State party's plans to adopt an action plan for older persons and efforts to improve the life of women with disabilities and those living in rural areas, the Committee remains concerned that older women, women with disabilities and rural women continue to face difficulties in gaining access to health care, training and other basic services.

33. **The Committee calls upon the State party:**

**(a) To pay special attention to the needs of older women, women with disabilities and rural women to ensure that they enjoy equal access to health care, training, employment and other rights;**

**(b) To expand women's access to microfinance and microcredit at low interest rates so as to enable them to engage in income-generating activities and to start their own businesses.**

**Marriage and family relations**

34. The Committee is concerned about the existence of traditional and religious marriages, which are solely based on religious ceremonies and customary traditions, including de facto polygamous marriages, which deny women and children legal and economic protection upon their dissolution.

35. **The Committee recommends that the State party effectively enforce its legislation in line with the Committee's general recommendation No. 29 on the economic consequences of marriage, family relations and their dissolution, and to protect the rights of women upon dissolution of such religious or customary marriages regardless of their registration status.**

**Amendment to article 20 (1) of the Convention**

36. **The Committee encourages the State party to accept, as soon as possible, the amendment to article 20 (1) of the Convention concerning the meeting time of the Committee.**

**Beijing Declaration and Platform for Action**

37. **The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention.**

**Millennium Development Goals and the post-2015 development framework**

**38. The Committee calls for the integration of a gender perspective, in accordance with the provisions of the Convention, into all efforts aimed at the achievement of the Millennium Development Goals and into the post-2015 development framework.**

**Dissemination**

**39. The Committee recalls the obligation of the State party to systematically and continuously implement the provisions of the Convention. It urges the State party to give priority attention to the implementation of the present concluding observations and recommendations between now and the submission of the next periodic report. The Committee therefore requests that the present concluding observations be disseminated in a timely manner, in the official languages of the State party, to the relevant State institutions at all levels (local, provincial, national), in particular to the Government, ministries, the parliament and the judiciary, to enable their full implementation. It encourages the State party to collaborate with all stakeholders concerned, such as employers' associations, trade unions, human rights and women's organizations, universities, research institutions and the media. It further recommends that its concluding observations be disseminated in an appropriate form at the local community level, so as to enable their implementation. In addition, the Committee requests the State party to continue to disseminate the Convention, the Optional Protocol thereto and relevant jurisprudence, as well as the Committee's general recommendations to all stakeholders.**

**Ratification of other treaties**

**40. The Committee notes that the adherence of the State party to the nine major international human rights instruments[1] would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to consider acceding to the Convention on the Rights of Persons with Disabilities and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, to which it is not yet a party.**

**Follow-up to the concluding observations**

**41. The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 19 and 29 (b) and (c) above.**

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[1] The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.

**Preparation of the next report**

**42. The Committee invites the State party to submit its fifth periodic report in February 2018.**

**43. The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/MC/2006/3 and Corr.1).**